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No. 10F-BD049-BNK

NOTICE OF HEARING AND COMPLAINT

Petitioner.

12 The purpose of the Hearing is to determine whether grounds exist to deny the loan originator
13 license application of Petitioner.

25 Motions to continue this matter shall be made in writing to the Administrative Law Judge not
26 less than fifteen (15) business days prior to the date set for the Hearing. A copy of any motion to

1 continue shall be mailed or hand-delivered to the opposing party on the same date of filing with the
2 Office of Administrative Hearings.

3 A.R.S. § 41-1092.07 entitles any person affected by this Hearing to appear in person and by
4 counsel, or to proceed without counsel during the giving of all evidence, to have a reasonable
5 opportunity to inspect all documentary evidence, to cross-examine witnesses, to present evidence
6 and witnesses in support of his/her interests, and to have subpoenas issued by the Administrative
7 Law Judge to compel attendance of witnesses and production of evidence. Pursuant to A.R.S.
8 § 41-1092.07(B), any person may appear on his or her own behalf or by counsel.

9 Pursuant to A.R.S. § 41-1092.07(E), a clear and accurate record of the proceedings will be
10 made by a court reporter. The transcription of the hearing proceedings by the court reporter shall be
11 the official record for purposes of the Administrative Law Judge's Recommended Decision and the
12 Superintendent's Final Decision and Order. Any party that requests a transcript of the proceedings
13 shall pay the cost of the transcript for the court reporter or other transcriber.

14 Questions concerning issues raised in this Notice of Hearing should be directed to Assistant
15 Attorney General Craig A. Raby, (602) 542-8889, 1275 West Washington, Phoenix, Arizona 85007.

16 **NOTICE OF APPLICABLE RULES**

17 On February 7, 1978, the Arizona Department of Financial Institutions (the "Department")
18 adopted A.A.C. R20-4-1201 through R20-4-1220, which were amended September 12, 2001, setting
19 forth the rules of practice and procedure applicable in contested cases and appealable agency actions
20 before the Superintendent. The hearing will be conducted pursuant to these rules and the rules
21 governing Prehearing and Hearing Procedures before the Office of Administrative Hearings,
22 pursuant to A.A.C. R2-19-101 through R2-19-122. A copy of these rules is enclosed.

23 Pursuant to A.A.C. R20-4-1209, Petitioner shall file a written answer within twenty (20) days
24 after issuance of this Notice of Hearing. The answer shall briefly state the Petitioner's position or
25 defense and shall specifically admit or deny each of the assertions contained in this Notice of
26 Hearing. If the answering Petitioner is without or is unable to reasonably obtain knowledge or

1 information sufficient to form a belief as to the truth of an assertion, Petitioner shall so state, which
2 shall have the effect of a denial. Any assertion not denied is deemed admitted. When Petitioner
3 intends to deny only a part or a qualification of an assertion, or to qualify an assertion, Petitioner
4 shall expressly admit so much of it as is true and shall deny the remainder. Any defense not raised
5 in the answer is deemed waived.

6 If a timely answer is not filed, under A.A.C. R20-4-1209(D), Petitioner will be deemed in
7 default and the Superintendent may deem the allegations in this Notice of Hearing as true and
8 admitted and the Superintendent may take whatever action is appropriate, including suspension,
9 revocation, denial of Petitioner's license or affirming an order to Cease and Desist and imposition of
10 a civil penalty or restitution to any injured party.

11 Petitioner's answer shall be mailed or delivered to the Arizona Department of Financial
12 Institutions, 2910 North 44th Street, Suite 310, Phoenix, Arizona 85018, with a copy mailed or
13 delivered to the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix,
14 Arizona 85007 and to Assistant Attorney General Craig A. Raby, Consumer Protection & Advocacy
15 Section, Attorney General's Office, 1275 West Washington, Phoenix, Arizona 85007.

16 **Persons with disabilities may request reasonable accommodations such as interpreters,**
17 **alternative format or assistance with physical accessibility.** Requests for accommodations must
18 be made as early as possible to allow time to arrange the accommodations. If accommodations are
19 required, call the Office of Administrative Hearings at (602) 542-9826.

20 COMPLAINT

21 1. On January 27, 2010, Petitioner Joseph William Coon ("Mr. Coon") submitted a
22 Loan Originator Application (the "Application"), under oath, to the Department, through the
23 Nationwide Mortgage Licensing System.

24 2. Question (D)(1) under "Criminal Disclosure" at page 5 of the Application, states:
25 "Have you ever been convicted of or plead guilty or nolo contendere ('no contest') in a domestic,
26 foreign, or military court to any felony?"

1 3. Mr. Coon answered "No" to Question (D)(1).

2 4. On February 11, 2010, the Department received a criminal background check
3 regarding Mr. Coon, revealing a 1994 arrest for possession of counterfeit obligations or securities,
4 which Mr. Coon failed to disclose on the Application.

5 5. On February 11, 2010, the Department placed an entry on the NMLS Information
6 Page regarding the results of the criminal background check of Mr. Coon, and requested that Mr.
7 Coon "[p]rovide a written explanation of the circumstances of the event AND source documents/
8 attachments (i.e. discharge certificate, police reports, court documents relating to any charges or
9 convictions, sentencing documents, or copies of orders)."

10 6. On March 2, 2010, Mr. Coon provided a written response to the Department's
11 request, setting forth an explanation regarding his arrest record as revealed on his criminal
12 background check. Mr. Coon further stated that he did not have any of his records regarding the
13 criminal matter, that the Nevada Federal Court was unable to locate the records, but that he would
14 continue to try and locate the records.

15 7. On March 23, 2010, Mr. Coon provided the Department with a copy of a Plea
16 Memorandum in *United States of America v. Joseph Coon*, United States District Court, District of
17 Nevada, No. CR-S-94-288-LDG (RLH), signed by Mr. Coon on May 2, 1995.

18 8. The Plea Memorandum revealed that on November 16, 1994, Mr. Coon was indicted
19 by the Federal Grand Jury in Las Vegas, Nevada on two counts of Possession and Passing
20 Counterfeit Obligations or Securities of the United States in violation of Title 18, United States
21 Code, Section 472.¹

22 9. The Plea Memorandum further revealed that Mr. Coon entered a plea of guilty to both
23 counts contained in the Criminal Indictment, and that the counterfeit obligations, consisting of one
24

25 ¹ 18 U.S.C. § 427 states, "Whoever, with intent to defraud, passes, utters, publishes, or sells, or attempts to pass, utter,
26 publish, or sell, or with like intent brings into the United States or keeps in possession or conceals any falsely made,
forged, counterfeited, or altered obligation or other security of the United States, shall be fined under this title or
imprisoned not more than 20 years, or both."

1 hundred dollar (\$100.00) Federal Reserve Notes, passed and possessed by Mr. Coon, had a total
2 value of three thousand three hundred dollars (\$3,300.00).

3 10. Based upon but not limited to the foregoing, on March 30, 2010, the Department
4 denied Mr. Coon's Application, pursuant to A.R.S. §§ 6-991.05(A)(1) and (4).

5 11. The Department's denial of Mr. Coon's Application is an appealable agency action as
6 defined by A.R.S. § 41-1092(3).

7 12. On June 3, 2010, the Department received a request for informal settlement
8 conference from Mr. Coon. In that request, Mr. Coon informed the Department that he received the
9 denial letter, sent by certified mail, on May 25, 2010. The informal settlement conference took place
10 on June 25, 2010, failed to resolve the matter.

11 13. On June 30, 2010, the Department received a request for hearing from Mr. Coon to
12 appeal the Department's denial of his Application.

13 **GROUND FOR DENIAL**

14 1. Pursuant to Title 6, Chapter 9 of the Arizona Revised Statutes, the Superintendent has
15 the authority and duty to regulate all persons engaged in the loan originator business and with the
16 enforcement of statutes, rules, and regulations relating to loan originators.

17 2. Pursuant to A.R.S. § 6-991.05(A)(1) the Superintendent may deny a license to a
18 person if the Superintendent finds that an applicant is not a person of honesty, truthfulness or good
19 character.

20 3. Mr. Coon's conduct, as described above, constitutes conduct showing he is not a
21 person of honesty, truthfulness or good character, which is grounds for the denial of Mr. Coon's
22 application, pursuant to A.R.S. § 6-991.05(A)(1).

23 4. Pursuant to A.R.S. § 6-991.05(A)(4) the Superintendent may deny a license to a
24 person if the Superintendent finds that an applicant has been convicted of a felony during the seven
25 year period immediately preceding the date of the application or any crime of breach of trust or
26 dishonesty, fraud or money laundering at any time preceding the date of application.

5. Mr. Coon's conduct, as described above, constitutes conduct showing he has been convicted of any crime involving breach of trust or dishonesty, fraud or money laundering at any time preceding the date of application, which is grounds for the denial of Mr. Coon's Application, pursuant to A.R.S. § 6-991.05(A)(4).

6. Grounds exist for the denial of Mr. Coon's loan originator Application pursuant to A.R.S. §§ 6-991.05(A)(1) and (4).

WHEREFORE, if after a hearing, the Superintendent makes a finding of one or more of the above-described violations, the Superintendent may affirm the denial of Mr. Coon's loan originator Application, pursuant to A.R.S. §§ 6-991.05(A)(1) and (4).

DATED this 15th day of July, 2010.

Lauren Kingry
Superintendent of Financial Institutions

By Robert D. Charlton
Robert D. Charlton
Assistant Superintendent of Financial Institutions

ORIGINAL of the foregoing filed this 15th day
of July, 2010, in the office of:

Lauren Kingry
Superintendent of Financial Institutions
Arizona Department of Financial Institutions
ATTN: Susan Longo
2910 N. 44th Street, Suite 310
Phoenix, AZ 85018

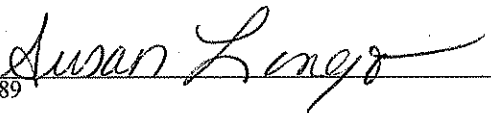
COPY mailed same date to:
Lewis D. Kowal, Administrative Law Judge
Office of Administrative Hearings
1400 West Washington, Suite 101
Phoenix, AZ 85007

Craig A. Raby, Assistant Attorney General
Office of the Attorney General
1275 West Washington
Phoenix, AZ 85007

1 Richard Fergus, Licensing Division Manager
Chris Dunshee, Loan Originator Licensing Manager
2 Arizona Department of Financial Institutions
2910 N. 44th Street, Suite 310
3 Phoenix, AZ 85018

4 AND COPY MAILED SAME DATE by
Certified Mail, Return Receipt Requested, to:

5 Joseph William Coon
6 5225 E. Camino Apolena
Tucson, AZ 85718
7 Petitioner

8 
9 # 855289

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